

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 244 – SB 1321

March 26, 2013

**SUMMARY OF ORIGINAL BILL:** Makes theft of a firearm a Class B felony, rather than graded on the value of the firearm.

Creates a Class B felony for using a firearm during the commission of or attempt of a crime without the owner's consent; it is a Class A felony if the crime is committed against a law enforcement officer in the course of the law enforcement officer's duties or because of the law enforcement officer's status as a law enforcement officer.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Expenditures – \$4,727,500/Incarceration\*

**SUMMARY OF AMENDMENT (005490):** Deletes Section 1 of the bill which made theft of a firearm a Class B felony, rather than graded on the value of the firearm.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

**Increase State Expenditures – \$2,719,300/Incarceration\***

Assumptions for the bill as amended:

- According to the TBI's 2011 Law Enforcement Officers Killed in Action report ([http://www.tbi.tn.gov/tn\\_crime\\_stats/publications/2011%20LEOKA.pdf](http://www.tbi.tn.gov/tn_crime_stats/publications/2011%20LEOKA.pdf)), there has been an average of 608 aggravated assaults committed against law enforcement officers per year for the last three years. It is assumed that one percent ( $608 \times .01 = 6$ ) of these were committed with a stolen firearm.
- The bill would result in six admissions each year being convicted of Class A felony for using a firearm during the commission of or attempt of a crime without the owner's consent against a law enforcement officer, which will be served consecutively to the sentence they will serve for the other crime committed.
- Population growth will account for one additional admission ( $6 \times .1178$ ) for a total of seven admissions ( $6 + 1$ ).
- A recidivism discount of 49.11 percent applies because the bill would result in each offender serving an additional 15.78 years, the average time served for a Class A felony,

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consecutive to the sentence they would receive for the aggravated assault, during which some offenders would have re-offended if not serving the consecutive sentence.

- According to the DOC, 49.11 percent of offenders will re-offend within three years of their release. A recidivism discount of 49.11 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under current law ( $7 \text{ offenders} \times .4911 = 3 \text{ offenders}$ ).
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on four offenders [ $7 \text{ offenders} - 3 \text{ (recidivism discount)}$ ] serving an additional 15.78 years (5,763.65 days) for a total of \$369,853 ( $\$64.17 \times 5,763.65 \text{ days}$ ). The cost for four offenders is \$1,479,412 ( $\$369,853 \times 4$ ).
- According to the DOC, there has been an average of 1,633.9 Class C felony admissions, 82.5 Class D felony admissions, and 93.2 Class E felony admissions each year over the past 10 years. It is assumed that one percent of these [ $\{1,633.9 + 82.5 + 93.2\} \times .01 = 18 \text{ admissions}$ ] each year involves a stolen weapon. It is assumed that these 18 admissions will be charged with a Class B felony for using a firearm during the commission of or attempt of a crime without the owner's consent, which will be served consecutively to the sentence they will serve for the other crime committed.
- Population will account for two additional admissions ( $18 \times .1178$ ) for a total 20 admissions ( $18 + 2$ ).
- A recidivism discount of 49.11 percent applies because the bill would result in each offender serving an additional 5.29 years, the average time served for a Class B felony, consecutive to the sentence they would receive for the aggravated assault, during which some offenders would have re-offended if not serving the consecutive sentence. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under current law ( $20 \text{ offenders} \times .4911 = 10 \text{ offenders}$ ).
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 10 offenders [ $20 \text{ offenders} - 10 \text{ (recidivism discount)}$ ] serving an additional 5.29 years (1,932.17 days) for a total of \$123,987 ( $\$64.17 \times 1,932.17 \text{ days}$ ). The cost for 10 offenders is \$1,239,870 ( $\$123,987 \times 10$ ).
- The total incarceration cost is \$2,719,282 ( $\$1,479,412 + \$1,239,870$ ).
- The bill would not result in any new cases for the Administrative Office of the Courts, District Attorneys General Conference (DAGC), or District Public Defenders Conference (DPDC). It would increase the number of indictments against these offenders, which would require more work by the DAGC and DPDC. However, it is assumed that any impact on the courts, district attorneys, and public defenders can be accommodated within existing resources.

*\*Tennessee Code Annotated § 9-4-210 requires an appropriation from recurring revenues for the estimated operation cost of any law enacted after July 1, 1986 that results in a net increase in periods of imprisonment in state facilities. The amount appropriated shall be based upon the highest cost of the next 10 years.*

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "Lucian D. Geise". The signature is fluid and cursive, with the first name "Lucian" written in a larger, more prominent script than the last name "Geise".

Lucian D. Geise, Executive Director

/trm